

6 February 2013

Mr Chairman,

Cc The Prime Minister, Deputy Prime Minister

While we welcome the ISC's gesture to investigate the issues brought to the public's attention by media around the world, we believe the inquiry is deeply flawed and cannot properly reassure the public that GCHQ and other British agencies have not acted beyond the law; collected data on millions of innocent people, and undermined cyber security.

While we will be submitting comments to your inquiry, we would like to place on the public record our substantial concerns about this process.

Firstly, it is far from clear exactly how the legal framework is being used and the interpretation of law remains secret.

Recently Ministers have been pressed in both Houses of Parliament to detail their interpretation of the current regulatory framework. While in the US more than 40 legal opinions and court rulings have been declassified, Ministers here continue to respond that they do not comment on intelligence matters.

To be clear, Ministers are not being asked to reveal capabilities or techniques but rather explain the application and interpretation of the current statutory framework.

This puts respondents and the wider public in an impossible situation. Without information about how law is being applied and interpreted, proposing specific legal changes as you request is extremely difficult.

Secondly, we believe the Intelligence and Security Committee is not the right body to conduct an inquiry into these issues.

While the Justice and Security Act 2013 strengthened the committee's powers, Secretaries of State retain a veto over what information the committee can see and the Prime Minister is ultimately responsible for deciding what material the committee is able to put into the public domain.

The Committee has wholly failed to ensure the debate around privacy online has been reasonably informed, as recent statements by those who sat on the Joint Committee on the Draft Communications Data Bill confirm. Equally, the Committee appears to have failed to

uphold the will of successive Parliaments that there would be no central database of communications data, which has now been revealed to have been established under the Tempora programme.

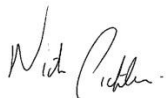
It is noteworthy that the Committee's call for papers does not invite comments on the oversight regime of the agencies, and public statements by members of the committee suggest these questions are not being approached with an open mind. Indeed, given the Committee's inquiry inevitably involves assessing its own past performance, it is clear that committee is not a neutral arbiter of the matters in question.

As such, Parliament should establish a full and independent inquiry, including outside expert members, which can consider the full range of issues, including Parliamentary accountability and oversight of the agencies and the suitability of the current legal framework.

Yours sincerely,



Isabella Sankey, Policy Director, Liberty



Nick Pickles, Director, Big Brother Watch



Dr Gus Hosein, Executive Director, Privacy International